

Ombudsman Annual Report to the Public January 1, – December 31, 2000

The ombudsman position was filled on November 29, 2000. This initial report will cover the activities of this position during the 2000 calendar year. This report will focus on two main areas, i.e., activities that are internal to DEM and activities that have a primary external component.

The primary responsibility of the Ombudsman is to help the Department improve its effectiveness, efficiency and accountability, and to increase both external and internal support. Towards this goal, the Ombudsman is charged with authority to undertake independent, and in certain cases confidential, fact-finding in response to external or internal complaints or questions about the Department's performance. The Ombudsman will facilitate resolution of complaints in coordination with Department staff and management, and will make recommendations to the Director on matters that cannot be resolved through such coordination. The Ombudsman is responsible for ensuring that the fact-finding process is perceived and experienced as an independent, impartial, fair and credible process. All members of the Department's staff are responsible for cooperating with the Ombudsman towards this goal.

In addition to independently investigating internal and external complaints, the Ombudsman may assist Department managers in efforts to resolve problems or improve on programs, policies and regulations. The Ombudsman is expected to turn the results of his or her independent fact-finding into feedback for such efforts.

Internal Activities

In this time period, the Ombudsman has been involved in five main DEM internal projects. Significant effort was expended on the following activities:

- **Program Permit Streamlining**
- **Implementation of the DEM Permit Streamlining Computer System**
- **Vehicle Policy**
- **Ombudsman Website Development**
- **Analysis of the Use of Engineering versus Environmental Scientist Positions**
- **Permit Tracking Status update**

• Program Permit Streamlining

The Department of Environmental Management is committed to continuously improving its performance. The Department's goals include effectiveness in protecting environmental quality and public health, as well as efficiency and accountability in the way the Department develops and implements rules and regulations, policies and programs.

The department, through the assistance of the Ombudsman, will be reviewing all the major environmental programs, focussing on the permitting programs, and will include the following program reviews: Wetlands, ISDS, the Waste Programs, the Air Program, Water Quality Certifications, RIPDES and UIC. Task Forces will be constituted to study the outstanding areas of concern in each of the program areas. The Task Forces will include members of the regulated community, impacted municipal, state and federal agencies and staff members of DEM programs. The

Task Forces will focus on ways to improve the program by suggesting administrative, policy and regulatory program changes, and if warranted, statutory changes.

A Wetlands Task Force was convened in January and met monthly through May. Ten working groups were set up to discuss the issues of concern raised by the full Task Force. The working groups developed recommendations to resolve these issues. The Ombudsman was responsible for coordinating all activities of the Wetlands Task Force and the ten working groups. A draft final report was completed and the final meeting of the Task Force was held in December. As a result of this Task Force the following major changes will be implemented:

- ◆ DEM will revise the Wetlands rules and regulatory reform will be accomplished in four phases. Some of the major changes include:
 1. Addresses the implementation of the new DEM-CRMC jurisdictional boundary as well as fee reductions for water quality improvement projects, wildlife habitat projects, and land reuse/ redevelopment projects.
 2. Includes a simpler fee schedule that will reduce the number of application deficiencies and reduce staff review time.
 3. Reorganizes the rules to provide better clarity about the application requirements, review criteria and approval process.
 4. Removes barriers in the regulations for pre-application meetings.
 5. Expands the administrative finding section to discuss the significance of the bordering areas in scientific terms.
 6. Continues to improve the clarity and predictability of the rules and the review process by incorporating new tiers of applications.
- ◆ The policy changes moving forward should reduce the number of wetlands applications filed with DEM and will improve the quality of the applications
- ◆ DEM will significantly expand its outreach effort with the goal of increasing application quality and minimizing review time.
- ◆ OWR will develop new guidance materials and conduct workshops for consultants, applicants and municipalities.

The Ombudsman also completed the draft initial Report of the ISDS Program. This report was generated by meeting with or conducting telephone interviews with members of the regulated, environmental and impacted members of the governmental communities, along with DEM program staff. This report constitutes the starting point for discussion for the ISDS Task Force. This report outlines the issues of concern of this constituent group. The ISDS Task Force met four times this year and the issues were grouped into three areas, i. e., Regulatory, Outreach and Training and Administrative. The last two working groups have completed their work and the regulatory working group has discussed about 90% of the topics raised by the Task Force. It is anticipated that a draft Final report will be completed in the next sixty days.

Initial meetings were held with constituents of the Waste Management and Air Programs. The Waste Management program will be the next program to be evaluated.

• **Implementation of the DEM Permit Streamlining Computer System**

DEM is in the process of developing a new computer permit tracking system. The system will be capable of both tracking individual program permitting information and having this information

available to other programs to support their decision-making capabilities. One of the issues that were brought up in the discussion of the system was the issue of public access to information and when it could be released to the public.

The Ombudsman was responsible for coordination of a DEM committee to investigate public access issues. As the committee worked through the public access issues, other concerns were identified such as the implications of submission and storage of electronic records, archival policy, web access and dissemination of information through the Internet. It became clear that this issue does not stand-alone but has larger over-reaching policy ramifications. The committee recommended that these identified issues were outside the scope of the original narrower issue and should be evaluated in context of DEM's overall information policy efforts.

The Office of Legal Services developed a policy that defined documents that were in the public realm and the procedures to be used by agency employees to release these documents. DEM employees were subsequently trained in these procedures and policy.

- **Vehicle Policy**

The Department of Environmental Management evaluated the use of the state fleet assigned to departmental employees. As a result of this review, it was determined there was a need to formalize the policy of how employees are able to use these vehicles for commuting purposes. The Ombudsman was assigned the responsibility to chair a committee to develop this policy. The Vehicle Policy Committee met primarily in May and June and developed a policy that was intended to ensure the use of state-owned vehicles by employees of the Department complied with applicable laws and regulations. The policy addresses commuting use of state vehicles; criteria for assignment of vehicles; employee mileage reimbursement requirements, and exemptions from the mileage reimbursement requirements. It is expected that DEM's vehicle fleet will be reduced, fuel savings will be considerable and maintenance costs will be reduced. The policy has been in effect since November and is considered a model state program by the Department of Administration.

- **Ombudsman Website Development**

A website was added to the DEM homepage that tracks the activities of the Ombudsman. The Ombudsman is responsible for developing the website content. Information concerning the Ombudsman policy, the status of the Program Permit Streamlining activities and news about past and future meetings of the Environmental and Business Roundtables has been posted. Meeting notes, working group reports and meeting notices and agendas for Task Force activities are located on the website to keep the Task Force members and the public informed on these streamlining activities. The Business and Environmental Roundtables agendas, meeting notes and handouts, whenever possible, are also posted on the website. The Ombudsman homepage can be found at the following location:

<http://www.state.ri.us/dem/org/ombuds.htm#stream>

- **Analysis of the Use of Engineering versus Environmental Scientist Positions**

As a result of the October Open Employees meeting with the Director, a question was raised concerning the hiring and /or promotion of Engineers versus Environmental Scientists. I conducted an

analysis of DEM's staffing of Engineers, Air Quality Specialists and the Environmental Scientists (Scientists). The table below shows the staffing levels at DEM for these positions.

Table 1 Classification Analysis Engineers Vs. Environmental Scientists						
Engineering Classifications			Environmental Scientists + Air Quality Specialists		Environmental Scientists	
	Number in Classification	Average Months in Classification	Number in Classification	Average Months in Classification	Number in Classification	Average Months in Classification
Supervising	10	100.1	12	67.5	10	75.3
Principal	16	80.6	19	57.6	15	61.1
Senior	15	40.6	24	65.6	17	61.4
Entry Level	25	33.4	33	40.7	22	43
Total	66	56.6	88	54.8	64	57.2

The analysis indicates there are similar numbers of Engineers and Scientists at the Supervising and Principal classifications. The average time spent in these positions is higher for the engineers. There are more employees in the senior and entry level of the Scientists classifications.

Human Resources will continue the analysis to determine the number of positions that were posted or were changed via the desk audit route.

- **Permit Tracking Status update**

DEM issues fifty-five different kinds of environmental approvals in the Water, Waste, and Air programs. In order to track our performance in issuing environmental approvals, information is needed to determine average processing time, the range of time needed to process an application, the time needed to process an application after all deficiencies have been corrected and the number of permits processed in a quarter. At this point in time, DEM does not have data in a central place that allows for a comprehensive comparison of program performance. Not all programs are collecting statistical information to determine some of these performance measures, but this information will be available with the implementation of the Kyran Permit Streamlining system, phase II.

Information was analyzed for the following two quarters, April 1-June 30, July 1- September 30, 2000 time periods. As a result of this analysis, a number of programs were identified as either having a backlog of permits, a high review time or a combination of both. The programs identified have been grouped into three categories, i.e., Backlog Reduction Plan in Place, Concern Raised – Needs Further Evaluation, and Programs of Concern.

Backlog Reduction Plan in Place

- RIPDES – Major Municipal Individual Permits have excessive decision times. This program however has a plan to reduce the backlog in the next year.
- RIPDES Minor Industrial Individual Permit program has a backlog and long permit times. The program is working on a backlog plan that includes development of general permits.
- The Order of Approval for Wastewater Treatment Facility sludge and composted sludge has a backlog of applications due to a regulation change that required the facilities to file new applications.
- Air Toxics Operating Permits – This program is one of the few programs in DEM whose permits are the result of DEM requesting permits. The program has been issuing permits, but there are a

number of cases where technical issues have prevented the program from issuing permits. The program has developed a plan to address outstanding permits.

Concern Raised – Needs Further Evaluation

- The Office of Waste Management's Site Remediation Program - Additional information needs to be collected to determine the status of the review program with respect to the state and Federal Remediation Programs before we can come to a conclusion on the status of decision-making or backlogs.

Programs of Concern

The following programs have been included in the last category due to either long review times or a backlog of applications and need further watching: ISDS Variance Applications, Wetlands-Preliminary Determinations, Application to Alter Freshwater Wetlands, and Air –Minor Source Review Program.

External Activities

The Ombudsman should be proactive and listen to and communicate with members of the regulated and environmental community and the general public. In order to be responsive to these groups the Ombudsman needs to collect information about their concern about the DEM. The following strategies have used to collect this information:

- ◆ Outreach
- ◆ Environmental Roundtable
- ◆ Business Roundtable
- ◆ Complaint Tracking Reports

Outreach

During this initial twelve-month period the Ombudsman met with the following constituent groups:

- ◆ The Environmental Council of Rhode Island (January 00) where we discussed the role of the Ombudsman position in DEM.
- ◆ The Rhode Island Society of Environmental Professionals quarterly meeting on April 13, 2000 where we discussed ombudsman activities.
- ◆ The Rhode Island Association of Environmental Managers where we discussed regulatory efforts of the department on May 9, 2000.

In addition to these formal meetings, I have also met with people who are impacted by the DEM regulatory programs to get feedback from these groups on the successes and areas where improvement are needed. As mentioned in the permit streamlining discussion above, I have met with consultants, DEM staff members and other members of the regulated community gather feedback on program performance.

Roundtables

Roundtables are an important feedback mechanism for DEM. They provide the Department with direct contact with the people who are impacted by our programs. They also offer an opportunity to interact with the Director and help us frame some of the solutions to our statewide environmental issues. The Ombudsman is responsible for developing the agendas, in coordination with the roundtable participants, generating the Director's briefing book that details the issues to be discussed and tracking the issues between the meetings. In addition, I developed surveys for both roundtables to determine if the agendas and the meetings were meeting the needs of the participants.

Environmental Roundtable

The Department has organized the Environmental Roundtable that focuses on topics that are of interest to the general environmental community. This group meets four times a year. The Environmental Roundtable meetings were held on January 12, May 10, August and October 1, 2000. The list of attendees was expanded in May to include other participants in the environmental field. Some of the issues discussed included: West Nile Virus, Lead Policy, and updates on DEM activities concerning the Watershed program, Enforcement, Forest Sustainability and Fragmentation Issues, Regulatory, Budget and workplan.

Business Roundtable

Business Roundtables were held on January 6, March 26, June 22, 2000 and September 28, 2000. Issues that have been discussed at these meetings included: Interim Policy for Arsenic in Soil, Draft Environmental Inspection Guidelines, Critical Timelines for the Enforcement Process, Site Remediation Staffing, Auto Body Certification Update, Environmental Compliance Incentive Act Update, and Guidelines for Above Ground Fuel Oil Storage in Residential and Small Commercial Applications.

The feedback survey for the business roundtable meeting indicated the meetings were at least meeting the expectations of the attendees and the handout material exceeded the expectations of the participants.

Complaint Tracking Reports

The ombudsman receives calls from the public concerning a range of environmental problems. Many of the calls can be answered in a short amount of time due to the nature of the problem. Concerns that deal with larger issues that come under the Ombudsman policy are tracked in an access database.